

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

ELIZABETH GRAVES,

Plaintiff,

v.

Civil Action No. 2:24-cv-00103

ELIZABETH HUFFMAN ELKINS,
BRANDON ELKINS, PNC BANK,
NATIONAL ALLIANCE,
GOLDEN & AMOS, P.L.L.C.,
DOE CORPORATION 1-10,
DOE REAL ESTATE COMPANY 1-10,

Defendants.

MEMORANDUM OPINION AND ORDER

Pending is defendants Elizabeth Huffman Elkins and
Brandon Elkins's ("defendants Elkins") Motion to Dismiss
Pursuant to Rule 12(b)(7), filed on March 8, 2024. ECF 6.

Plaintiff filed her response in opposition to the
motion on March 21, 2024, in which she argues that the motion
should be dismissed for failing to submit with the motion a
supporting memorandum. ECF 11. On March 27, 2024, defendants
Elkins filed a reply, ECF 12, as well as an "Amended Motion to
Dismiss Pursuant to Rule 12(b)(7)" with supporting memorandum.
ECF 13-14.


Our Local Rules of Civil Procedure Rule 7.1 requires "[a] memorandum of not more than 20 pages in length [to] accompany ... [a motion] to dismiss ... If a memorandum is not submitted as required by this rule or by the court, the motion will be denied without prejudice." L. R. Civ. P. 7.1(a)(2).

Inasmuch as defendants Elkins have remedied the error by filing with the court an amended Motion to Dismiss with a sufficient supporting memorandum within the required time period, the plaintiff's request to strike the first Motion to Dismiss is deemed fulfilled. See ECF 7 (detailing that the deadline to file a motion under Rule 12(b) is April 1, 2024); ECF 13-14 (detailing the "Amended Motion" and supporting memorandum were filed on March 27, 2024).

Consequently, the court DENIES the defendants Elkins' first Motion to Dismiss (ECF 6) as moot, and ORDERS plaintiff, if she so chooses, to respond to the second Motion to Dismiss by April 10, 2024.

The Clerk is directed to transmit copies of this memorandum opinion and order to counsel of record and any unrepresented parties.

ENTER: April 1, 2024


John T. Copenhaver, Jr.
Senior United States District Judge